

E-Filing

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COUNSEL FOR THE UNITED STATES
OF AMERICA, PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
CORRINE MARSHALL,)
)
Defendant,)
)
and)
)
Kaiser Permanente,)
)
Garnishee.)
_____)

Case No. C91-03058

**WRIT OF CONTINUING
GARNISHMENT**

TO: Payroll Department
Kaiser Permanente
1 Kaiser Plaza
Oakland, CA 94612

YOU ARE HEREBY COMMANDED TO GARNISH FOR THE BENEFIT OF
THE UNITED STATES OF AMERICA THE WAGES, SALARY, OR COMMISSION IN
YOUR CUSTODY, CONTROL, OR POSSESSION IN WHICH THE DEFENDANT-
JUDGMENT DEBTOR HAS AN OWNERSHIP INTEREST.

The name and last known address of the person who is the defendant-
judgment debtor (hereinafter "debtor") in this action and whose property is subject to
this Writ are as follows:

1 CORRINE MARSHALL
2 2044 Black Rose Lane
3 Stockton, CA 95206

4 This Writ has been issued at the request of the United States of America to
5 enforce the collection of a civil judgment entered in favor of the United States against
6 the debtor for a defaulted student loan in the amount of \$1,104.79. There is a balance
7 of \$1,409.85 due on the judgment, which amount includes costs and interest
8 computed through 12-01-08.

9 The following are the steps that you must take to comply with this Writ. If you
10 have any questions, you should consult with your attorney.

11 1. Pursuant to 28 U.S.C. § 3205(c)(2)(F), if you have in your custody, control,
12 or possession any property of the debtor, including wages, salary, or commissions, in
13 which the debtor has a substantial nonexempt interest, or if you obtain custody,
14 control, or possession of such property while this Writ is in effect, you must
15 immediately withhold such property from the debtor and retain it in your possession
16 until you receive instructions from the Court which will tell you what to do with the
17 property. The United States has requested that the sum of 25% of the debtor's
18 disposable earnings, which under California law represents the nonexempt portion of
19 the debtor's earnings, be withheld from the defendant's earnings.

20 2. Pursuant to 28 U.S.C. § 3205(c)(2)(E), you are required to answer this Writ
21 within 10 days after service of this Writ upon you. You must answer the Writ even if
22 you do not have in your custody, control, or possession any property of the debtor.
23 Pursuant to 28 U.S.C. § 3205(c)(4), your answer must state, under oath, the following
24 information:

- 25 a. Whether or not you have in your custody, control, or possession, any
26 property owned by the debtor in which the debtor has a substantial
27 nonexempt interest, including nonexempt, disposable earnings;

- b. a description of such property and the value of such property;
- c. a description of any previous garnishments to which such property is subject and the extent to which any remaining property is not exempt; and
- d. the amount of the funds you anticipate owing to the debtor in the future and whether the period for payment will be weekly or another specified period.

For your convenience, a form which addresses the above-requested information is attached and may be used to Answer the Writ.

3. After you complete the answer under oath, pursuant to 28 U.S.C. § 3205(c)(2)(E) & (c)(4), within ten (10) days after service of this Writ upon you, you must mail or deliver the original Answer bearing the original signature of the person preparing the answer to the Court at the following address:

Clerk, United States District Court
450 Golden Gate Avenue, 16th Floor
P. O. Box 36060
San Francisco, CA 94102

At the same time that you mail or deliver the original answer to the Court, you must also mail or deliver a copy of the original Answer to both the debtor and attorney for the United States at the following respective addresses:

CORRINE MARSHALL
2044 Black Rose Lane
Stockton, CA 95206

Michael Cosentino, Attorney at Law
P.O. Box 129
Alameda, CA 94501

Please note that the attached form Answer contains a certificate of service which needs to be completed by the person mailing the copies of the answer to the debtor and the attorney for the United States, and which needs to be filed along with the Answer.

1 IF YOU FAIL TO ANSWER THIS WRIT OR FAIL TO WITHHOLD PROPERTY
2 IN ACCORDANCE WITH THIS WRIT, THE UNITED STATES MAY PETITION THE
3 COURT FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE THE COURT TO
4 ANSWER THE WRIT AND TO WITHHOLD PROPERTY IN ACCORDANCE WITH
5 THE WRIT BEFORE THE APPEARANCE DATE. IF YOU FAIL TO APPEAR OR DO
6 APPEAR AND FAIL TO SHOW GOOD CAUSE WHY YOU FAILED TO COMPLY
7 WITH THIS WRIT, THE COURT WILL ENTER A JUDGMENT AGAINST YOU FOR
8 THE VALUE OF THE DEBTOR'S NONEXEMPT INTEREST IN SUCH PROPERTY
9 (INCLUDING NONEXEMPT DISPOSABLE EARNINGS). THE COURT MAY ALSO
10 AWARD A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES AND
11 AGAINST YOU IF THE WRIT IS NOT ANSWERED WITHIN THE TIME SPECIFIED
12 HEREIN AND IF THE UNITED STATES FILES A PETITION REQUIRING YOU TO
13 APPEAR.

14 RICHARD W. WIEKING, Clerk
15 United States District Court
16 for the Northern District of California

17 Dated: 1/28/2009

By: 

Deputy Clerk

TO: KAISER PERMANENTE

INSTRUCTIONS TO GARNISHEE

ENCLOSED IS A WRIT OF GARNISHMENT REQUESTING THAT YOU DETERMINE WHETHER OR NOT YOU HAVE IN YOUR POSSESSION, CUSTODY OR CONTROL ANY OF THE PROPERTY OF THE DEBTOR LISTED THEREIN, OR ANY OTHER PROPERTY OF THE DEBTOR. YOU ARE REQUIRED BY LAW TO SERVE A WRITTEN ANSWER TO THIS WRIT. YOU ARE FURTHER REQUIRED TO WITHHOLD AND RETAIN ANY PROPERTY IN WHICH THE DEBTOR HAS A SUBSTANTIAL NON-EXEMPT INTEREST. A LIST OF EXEMPTIONS WHICH ARE NOT SUBJECT TO THE WRIT OF GARNISHMENT IS ATTACHED TO THE CLERK'S NOTICE ENCLOSED WITH THIS PAPER.

IF YOU FAIL TO ANSWER THIS WRIT OR TO WITHHOLD PROPERTY IN ACCORDANCE WITH THE WRIT, THE COURT MAY MAKE YOU LIABLE FOR THAT AMOUNT OF THE DEBTOR'S NON-EXEMPT PROPERTY WHICH YOU FAIL TO WITHHOLD. ADDITIONALLY, YOU MAY BE HELD LIABLE FOR A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES OF AMERICA IF THE UNITED STATES FILES A PETITION TO THE COURT REQUESTING AN EXPLANATION FOR YOUR FAILURE TO COMPLY WITH THIS WRIT.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE LAW OFFICE OF MICHAEL COSENTINO, AT 510-523-4702, OR BY MAIL AT P.O. BOX 129, ALAMEDA, CA 94501.

DO NOT WITHHOLD THE EXEMPT PORTION OF THE EMPLOYEE'S EARNINGS

1. Earnings include any money (whether called wages, salary, commissions, bonuses, or anything else) paid for personal services, pension, or retirement. Vacation or sick pay is earnings subject to withholding as it is *received* by the employee.

2. Disposable earnings are different from gross pay or take-home pay. They are the earnings left after deducting the part which state or federal law requires an employer to withhold as mandatory deductions. Generally, these mandatory deductions are federal income tax, social security (FICA) tax, state income tax, state disability insurance, and payments to public employee retirement systems. Disposable earnings can change from pay period to pay period, whenever gross pay or required deductions change.

To determine earnings that¹ are eligible for withholding, and therefore must be withheld, see the chart below.

USE THE CHART BELOW TO DETERMINE NONEXEMPT DISPOSABLE EARNINGS AND THE APPLICABLE WITHHOLDING AMOUNT¹:

Pay Period:	Weekly or oftener	Every 2 weeks	Twice a month	Once a month
Disposable earnings:	\$ 0 to \$199.50	\$ 0 to \$399.00	\$ 0 to \$432.25	\$ 0 to \$864.50
Withhold:	Nothing (entire earnings are exempt)			
Disposable earnings:	\$199.51 to \$266.00	\$399.01 to \$532.00	\$432.26 to \$576.33	\$864.51 to \$1,152.67
Withhold:	Amt. over \$199.50	Amt. over \$399.00	Amt. over \$432.25	Amt. over \$864.50
Disposable earnings:	\$266.01 or more	\$532.01 or more	\$576.34 or more	\$1,152.68 or more
Withhold:	25% of disposable earnings (balance is exempt)			

¹Based on the Federal Minimum Wage Earnings of \$6.55 an hour, effective 07/24/2008

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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,)

12 Plaintiff,)

13 v.)

14 CORRINE MARSHALL,)

15 Defendant,)

16 and)

17 Kaiser Permanente,)

18 Garnishee.)
19 _____

Case No. C91-03058

) **ANSWER OF GARNISHEE**

20 I, _____, being first duly sworn, hereby state the following:

21 1. I am the _____ (Official Title) of the Garnishee
22 named in the above caption. I am authorized to prepare this Answer on behalf of the
23 Garnishee.

24 2. The Garnishee was served with the Writ of Continuing Garnishment on
25 _____ (date) in this action.

26 3. The Garnishee currently has custody, control, or possession of earnings of
27 the Defendant. Yes____ No____

28 4. The Garnishee expects to obtain custody, control, or possession of earnings

1 of the Defendant in the foreseeable future. Yes ____ No ____

2 5. For the pay period in effect on the date of service of this Writ of Continuing
3 Garnishment, the Garnishee states as follows:

4 a. Defendant was in my/our employ. Yes ____ No ____

5 b. The Defendant's pay period is ____ weekly, ____ bi-weekly,
6 ____ semi-monthly, ____ monthly.

7 c. The Defendant's present pay period began on ____ (date).
8 ("Present" means the pay period in which the Writ of Continuing
Garnishment was served.)

9 d. The Defendant's present pay period ends on ____ (date).

10 e. The Defendant's net wages are as calculated below:

11 (1) Gross Pay \$ ____

12 (2) Federal income tax \$ ____

13 (3) F.I.C.A. tax \$ ____

14 (4) State income tax \$ ____

15 (5) SDI \$ ____

16 Total tax withholdings \$ ____

17 Net Wages \$ ____
18 (gross pay minus above withheld taxes)

19 6. Are there any other garnishments currently in effect? Yes ____ No ____

20 If the answers is yes, describe below and attach to this Answer a copy of each
21 garnishment:
22

23 _____
24 _____
25 _____

26 7. Will the Garnishee owe the Defendant money in the foreseeable future?

27 Yes ____ No ____ If the answer is yes, provide the reason why such money will be
28 owed, the amount of money that will be owed, and the date or dates on which each

1 payment will be due:

2
3 Type of Payment Amount Date Payment Will be Due

4 1. _____

5 2. _____

6 3. _____

7 8. Does the Garnishee currently have custody, control or possession of property
8 (other than earnings) such as bank accounts, pensions, thrift plans, etc., in which the
9 Defendant maintains an interest? Yes____ No____ If the answer is yes, then
10 provide the following information for each item of such property:

11 Description of Property Approximate Value Description of Defendant's Interest

13 1. _____

14 2. _____

15 3. _____

16 4. _____

17 9. Does the Garnishee expect to obtain in the foreseeable future custody,
18 control or possession of property (other than earnings) such as bank accounts,
19 pensions, thrift plans, etc., in which the Defendant maintains an interest? Yes____
20 No____ If the answer is yes, then provide the following information for each item of
21 such property:

22 Description of Property Approximate Value Description of Defendant's Interest Date Will Obtain Property

24 1. _____

25 2. _____

26 3. _____

27 4. _____

28

1 10. Does the Garnishee have any objections or defenses to the Writ of
2 Continuing Garnishment? Yes____ No____ If the answer is yes, list the nature
3 and basis of each objection and/or defense:

4 _____
5 _____
6 _____
7 _____
8 _____

9 On behalf of Kaiser Permanente, I hereby certify under penalty of perjury under
10 the laws of the United States of America that the foregoing is true and correct.

11

12 Dated: _____

By: _____

13

(Sign above and type or print name
below)

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CERTIFICATE OF SERVICE

I, _____, declare:

That I am a citizen of the United States and employed in the County of

_____, California; that my business address is

_____ ; that I am

over the age of eighteen years; and that I am not a party to the above-entitled action;

That on _____ (date), I deposited in the United States mail, in envelopes bearing the requisite postage, a copy of:

ANSWER OF GARNISHEE

addressed to each of the following, at their last known addresses, at which place

there is service by United States mail.

CORRINE MARSHALL
2044 Black Rose Lane
Stockton, CA 95206

Michael Cosentino
Attorney at Law
P.O. Box 129
Alameda, CA 94501

This Certificate was executed on _____ (date),
at _____ (city), California.

I certify under penalty of perjury that the foregoing is true and correct.

(sign above and type or print name
below)